

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

SHAWN WAUGH,

Petitioner,

vs.

WARDEN BRADSHAW,

Respondent.

:
:
:
:
:
:
:
:
:
:
:
:

CASE NO. 1:11-CV-01198

OPINION & ORDER
[Resolving Doc. No. [10](#)]

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

On June 10, 2011, Petitioner Shawn Waugh filed a petition for a writ of habeas corpus under [28 U.S.C. § 2254](#). The matter was referred to Magistrate Judge Nancy Vecchiarelli, pursuant to Local Rule 72.2. On November 29, 2011, believing that the court may not consider his ineffective assistance of appellate counsel argument, Waugh filed a motion to amend his petition. [Doc. [10](#).] On December 8, 2011, Magistrate Judge Vecchiarelli issued a Report and Recommendation recommending that the Court deny the motion. [Doc. [12](#).]

The Federal Magistrates Act requires a district court to conduct a *de novo* review only of those portions of a Report and Recommendation to which the parties have made an objection. [28 U.S.C. § 636\(b\)\(1\)\(C\)](#). Parties must file any objections to a Report and Recommendation within fourteen days of service. *Id.*; [Fed. R. Civ. P. 72\(b\)\(2\)](#). Failure to object within this time waives a party's right to appeal the district court's judgment. [Thomas v. Arn, 474 U.S. 140, 145 \(1985\)](#);

Case No. 1:11-CV-01198
Gwin, J.

United States v. Walters, 638 F.2d 947, 949-50 (6th Cir. 1981). Absent objection, a district court may adopt the magistrate judge's report without review. *See Thomas*, 474 U.S. at 149.

In this case, neither party has objected to the Report and Recommendation. Moreover, having conducted its own review of the record and the petitioner's motion, the Court agrees with the recommendation of Magistrate Judge Vechiarelli that the motion should be denied. Petitioner Waugh says that the state appellate court failed to adjudicate the claims that made his appellate counsel ineffective. This Court's review of Waugh's habeas petition, however, is not barred by the state appellate court's consideration (or lack thereof) of Waugh's underlying claims.

Accordingly, the Court **ADOPTS** in whole Magistrate Judge Vechiarelli's Report and Recommendation and **DENIES** Petitioner Waugh's motion to amend his petition.

IT IS SO ORDERED.

Dated: February 28, 2012

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE